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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/587,493	06/02/2000	Hugh L. Brunk	60049	7276

23735 7590 09/24/2004

DIGIMARC CORPORATION  
19801 SW 72ND AVENUE  
SUITE 250  
TUALATIN, OR 97062

EXAMINER

COLIN, CARL G

ART UNIT	PAPER NUMBER
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2136

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/587,493	<b>Applicant(s)</b> BRUNK, HUGH L.	
	<b>Examiner</b> Carl Colin	<b>Art Unit</b> 2136	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
     a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                     | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                            | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6/1/04</u> | 6) <input type="checkbox"/> Other:  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. In response to communications filed on 6/1/2004, Applicant mentions that claims have been amended on page 6, but fails to amend the claims on page 3. Applicant also amends claims 12, 13, 15 and 16. The following claims 1-20 are presented for examination.
2. Applicant's remarks, pages 6-7 filed on 6/1/2004, with respect to the rejection of claims 1-20 have been fully considered but are moot in view of a new ground of rejection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

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reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3.1 **Claims 1-18** are rejected under 35 U.S.C. 102(e) as being anticipated by Kankanhalli et al., "Content Based Watermarking of Images", 1998, ACM Multimedia pages 61-70.

3.2 **As per claims 1 and 11**, Kankanhalli et al. discloses a method for reading a digital watermark in a media signal comprising: assigning sets of media signal samples into classes, for example (see page 61); computing a statistical distribution of the classes (see pages 63-66); and using the statistical distribution to detect or read a watermark in the media signal (see 63-66).

**Claims 2-6** recite the same inventive concept as claim 1 except for using different signals. Kankanhalli et al. discloses that the invention can be implied in video data as well. Therefore, these claims are rejected on the same rationale as the rejection of claim 1.

**As per claims 7-11**, Shur discloses the limitation of wherein using the statistical distribution includes: assigning a figure of merit to a sample indicating a likelihood that the sample includes a recoverable portion of a watermark signal; and using the figure of merit in a read operation wherein assigning a figure of merit includes assigning a weight to the sample indicating an extent to which the sample is likely to reflect valid watermark data and wherein using the statistical distribution includes: assigning a figure of merit to a sample indicating a likelihood that the sample includes a recoverable portion of a watermark signal; and using the figure of merit in a watermark decoding operation, for example (see pages 64-66 and 62).

Claims 12-18 recite the same inventive concept as claims 1-11 except for using characteristics computed from the samples to group them into classes. Kankanhalli et al. discloses characteristics computed from the samples to group them into classes, for example (see pages 63-65). Therefore, these claims are rejected on the same rationale as the rejection of claims 1-11.

Claim 19 recites the same limitation as claim 1 except for using a signal suspected of containing a watermark signal. On page 62, section 1.2, Kankanhalli et al. discloses using a signal suspected of containing a watermark signal

### ***Conclusion***

4. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 6/1/2004 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4.1 The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


US Patents	5,809,455	Nishigushi et al.
	5,809,139	Girod et al.
	6,330,672	Shur

4.2 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl Colin whose telephone number is 703-305-0355. The examiner can normally be reached on Monday through Thursday and every other Friday, 8:00-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 703-305-9648. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

*cc*  
Carl Colin  
Patent Examiner  
September 20, 2004

  
AYAZ SHEIKH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100